

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

ELIZABETH SINES, et al.,)	
)	
Plaintiffs,)	Civil Case No. 3:17-CV-00072
)	
vs.)	
)	
JASON KESSLER, et al.,)	
)	
Defendants.)	

TRANSCRIPT OF TELEPHONIC HEARING
HONORABLE MAGISTRATE JUDGE JOEL C. HOPPE PRESIDING
MONDAY, APRIL 27, 2020, 1:10 P.M.

Court Reporter: Judy K. Webb, RPR
210 Franklin Road, S.W., Room 540
Roanoke, Virginia 24011
(540) 857-5100 Ext. 5333

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Computer-Aided Transcription.

Sines, et al. v. Kessler, et al. - 4/27/2020

A P P E A R A N C E S

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On behalf of Defendants Jason Kessler; Christopher Cantwell; Vanguard America; Robert Azzmador Ray; Nathan Damigo; Elliot Kline, also known as Eli Mosely; Identity Evropa; Matthew Heimbach; Matthew Parrott, also known as David Matthew Parrott; Traditionalist Worker Party; National Socialist Movement; Nationalist Front; Jeff Schoep; Vanguard America:

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Sines, et al. v. Kessler, et al. - 4/27/2020

A P P E A R A N C E S (Continued)

On behalf of Michael Hill, Michael Tubbs, and League of the South:

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Sines, et al. v. Kessler, et al. - 4/27/2020

1 (Court convened at 1:10 p.m.)

2 THE COURT: Hi. This is Joel Hoppe.

3 Who is on the line for the plaintiffs?

4 MR. BLOCH: Judge, this is Michael Bloch from Kaplan
5 Hecker & Fink. I have a number of colleagues.

6 MR. MILLS: This is David Mills from Cooley.

7 MR. LEVINE: This is Alan Levine from Cooley.

8 MS. PHILLIPS: And Jessica Phillips from Boies,
9 Schiller, Flexner on behalf of the plaintiffs is also on.

10 MS. KAPLAN: I'm Roberta Kaplan, Your Honor, backing
11 up my colleague, Michael Bloch.

12 MR. SIEGEL: And this is Joshua Siegel from Cooley.

13 THE COURT: All right. Anyone else for the
14 plaintiffs?

15 (No audible response.)

16 THE COURT: Okay. Let's see. Ms. Lunsford, are you
17 on the phone?

18 (No audible response.)

19 THE COURT: All right. How about Mr. Hill?

20 (No audible response.)

21 THE COURT: Okay. All right. Mr. Hopper, are you on
22 the phone?

23 UNIDENTIFIED MALE VOICE: (Indiscernible.)

24 THE COURT: All right. And how about Mr. Kolenich or
25 Mr. Woodard?

Sines, et al. v. Kessler, et al. - 4/27/2020

1 MR. KOLENICH: Mr. Kolenich here, Your Honor.

2 THE COURT: All right. Mr. Campbell?

3 MR. CAMPBELL: Yes, sir, Judge. I'm here, Your
4 Honor.

5 THE COURT: Mr. ReBrook? Is Mr. ReBrook on the
6 phone?

7 (No audible response.)

8 THE COURT: Who else is on the phone as either a
9 party or maybe representing a party?

10 MR. DiNUCCI: Judge, this is John DiNucci for Richard
11 Spencer.

12 THE COURT: All right.

13 MR. JONES: And, Judge, this is Bryan Jones for
14 League of the South, Michael Hill, and Michael Tubbs.

15 THE COURT: Okay. All right. Thank you all for
16 calling in. This hearing is being recorded by the Court's FTR
17 system, so there is a record being made of it. And we don't
18 need them to identify themselves; I think there are some
19 interested citizens who -- perhaps media, who have also called
20 in on the line, as this is a public hearing.

21 The purpose of today's hearing is, really, a status
22 conference on a number of discovery-related motions that have
23 been filed. There are motions to quash filed by Ms. Lunsford
24 and Mr. Hill at 647 and 648; and plaintiffs' motions to compel
25 at 650 concerning Vanguard America, 652 concerning

Sines, et al. v. Kessler, et al. - 4/27/2020

1 Mr. Kessler, 671 concerning Mr. Fields, 673 concerning Ray,
2 674 concerning National Socialist Movement and Nationalist
3 Front, and then 689 concerning Mr. Schoep. There was a more
4 recent motion filed as well by the plaintiffs at 713 regarding
5 Vanguard America as well.

6 But I really just wanted to get an update as to
7 whether parts of any of those motions have been worked out
8 among the parties or whether these motions have been resolved
9 in total. I have reviewed the motions, and I think the issues
10 are laid out pretty clearly in them, but I do want to get an
11 update from the parties as well.

12 So I think that Ms. Lunsford and Mr. Hill were going
13 to be on the phone, but, Mr. Campbell, perhaps you can provide
14 some information that might overlap with those motions as
15 well. And then if the plaintiffs have anything to weigh in on
16 as to Mr. Fields' documents, I would just like to get an
17 update about those motions.

18 Mr. Bloch, do you want to start us off on that, just
19 an update?

20 MR. BLOCH: Sure. Thank you, Judge.

21 I believe that of the motions that you read two of
22 them have been resolved. That would be motion 650 to the
23 motion to compel Vanguard, and motion 652, which is the motion
24 to compel Kessler.

25 Mr. Levine was the author of those motions. I don't

Sines, et al. v. Kessler, et al. - 4/27/2020

1 know if he has anything to add on that, but it's my
2 understanding that those have been resolved. And I believe
3 that is all of the motions before Your Honor that have been
4 resolved.

5 MR. LEVINE: That's correct, Your Honor. It's
6 Mr. Levine, Alan Levine. Hello. 650 and 652 are resolved.

7 THE COURT: (Indiscernible.)

8 MR. LEVINE: And there's an additional motion from
9 Vanguard for sanctions, which is 713, which is not
10 (indiscernible) yet and will -- you know, will be for a later
11 time, Your Honor.

12 THE COURT: Right. All right. Well, thank you for
13 that update.

14 Why don't we -- (indiscernible) part update on 671
15 from Mr. Campbell and Mr. Bloch.

16 Mr. Bloch, are there any portions of that motion that
17 have been resolved?

18 MR. BLOCH: I don't believe so, Your Honor; although,
19 Mr. Mills and Mr. Levine were the primary authors on that, and
20 so I don't know if they want to weigh in as well. But I don't
21 believe any of that has been resolved.

22 MR. MILLS: Thank you. This is David Mills, Your
23 Honor, for the plaintiffs.

24 671 for Fields has not been resolved, and the
25 related -- the motions to quash with Ms. Lunsford and

Sines, et al. v. Kessler, et al. - 4/27/2020

1 Mr. Hill, 647 and 648, also have not been resolved.

2 THE COURT: Okay. All right. Mr. Campbell, is there
3 anything else? In your view, are all the issues still --
4 still alive for 671?

5 MR. CAMPBELL: Yes, sir, Your Honor, and our position
6 is as laid out in the brief in opposition. I think the
7 Court's determination, at least in regard to all the criminal
8 stuff, is, you know, whether that's in Fields' care, custody,
9 and control. And our position, of course, is that it is not,
10 as evidenced by the motions to quash filed by the criminal
11 counsel. And I think there was -- you know, there are two
12 state court counsel, and I believe that position is the same
13 as held by the federal -- Ms. Lorish, I believe, the federal
14 public defender.

15 And I've never had any access to their files
16 whatsoever. And my understanding, when I reached out to them
17 at the beginning of the litigation, was they would not let me,
18 I was not entitled to that. So I do think that issue, you
19 know, is before the Court.

20 THE COURT: Okay. Let me ask you: Do any of you as
21 to 671, and then plaintiffs' counsel for 647 and 648, do you
22 want to have a formal hearing on that motion, or are you okay
23 with me going ahead and addressing those on the briefs? I do
24 think that the issues have been laid out well in the brief.

25 MR. MILLS: Yeah. This is David Mills, plaintiffs'

Sines, et al. v. Kessler, et al. - 4/27/2020

1 counsel. On those motions, look, if it would be helpful to
2 the Court, we would be happy to argue them. We obviously do
3 not agree with Mr. Campbell. But if you feel that the briefs
4 have adequately laid them out, that's fine. We're not looking
5 to extend the process unnecessarily.

6 THE COURT: Mr. Campbell, how about you? Do you
7 think you need a hearing on those?

8 MR. CAMPBELL: No. I agree, Judge. At the Court's
9 discretion, I'm fine with the Court ruling on the motions.

10 THE COURT: All right. Well, I do intend to just
11 take those up on the papers. I think those issues are
12 adequately laid out so I can address them.

13 All right. Of course, let's see, Mr. ReBrook is
14 not -- Mr. ReBrook, you're not on the phone, are you? You
15 haven't called in, have you?

16 (No audible response.)

17 THE COURT: All right. Well, he -- let's see. He's
18 currently representing NSM and NF and also Mr. Schoep, and
19 there are a number of motions pending regarding -- regarding
20 those defendants. And, similarly, I think that the briefing
21 lays out the issues, and I don't feel that I need to have a
22 hearing on those. But does plaintiffs' counsel want to have a
23 hearing on any of them?

24 MS. PHILLIPS: Yes, Your Honor, this is Jessica
25 Phillips from Boies Schiller. We're perfectly comfortable

Sines, et al. v. Kessler, et al. - 4/27/2020

1 with you ruling on those motions on the papers.

2 THE COURT: Okay. Well, I intend to do that.

3 And Mr. Ray has not filed an opposition to the
4 plaintiffs' motion to compel, so, similarly, we'll just take
5 that up on the written filing as well.

6 Let's see. And then the renewed motion for sanctions
7 against Vanguard America is one I'm going to take up on a
8 report and recommendation to Judge Moon. That motion is not
9 ripe yet, so I'll wait to see if there are any additional
10 filings from Vanguard America on that.

11 Are there any other -- any other -- and I know, of
12 course, Mr. ReBrook has filed a motion to withdraw as well.
13 And unless plaintiffs wants to have a hearing on that, I also
14 plan to take that up on the filings.

15 MR. BLOCH: I think that makes sense, Judge. This is
16 Mike Bloch.

17 THE COURT: All right. I think that wraps up all of
18 the motions here, and I do intend to try and address those
19 pretty quickly to get some guidance out to the parties on
20 them.

21 Is there anything else that we need to take up today?

22 MR. BLOCH: Judge, this is Mike Bloch again. In
23 terms of motions, the only other motion that I believe is
24 still pending is the motion to enjoin Defendant Cantwell from
25 making threats, Docket Number 511, which we were hoping to get

Sines, et al. v. Kessler, et al. - 4/27/2020

1 a ruling on.

2 THE COURT: Right. I certainly have that on my
3 radar, Mr. Bloch. I think there's also a plaintiffs' motion
4 for attorney's fees related to some prior discovery requests,
5 motions to compel, and that's also something that's on my
6 radar as well.

7 MS. KAPLAN: On the Cantwell -- this is Roberta
8 Kaplan, Your Honor. On the Cantwell motion, you know, there's
9 a little bit of -- somewhat less urgency now in that I
10 understand he's currently in federal custody (indiscernible)
11 on another threat against someone else that was similar. But,
12 obviously, given the fact that he's been indicted, you know,
13 we feel some urgency in getting this decided.

14 THE COURT: Okay. Thank you, Ms. Kaplan.

15 All right. Anything from anybody else?

16 MS. KAPLAN: I think, Your Honor, the only other
17 thing is that the parties have had some very productive
18 conversations about how to complete discovery given the COVID
19 and the current pandemic. And all the parties have agreed to
20 conduct depositions by video, which we'll be resuming, and so
21 we intend to complete discovery on schedule and be ready for
22 trial in October.

23 THE COURT: All right. Well, I think that sounds
24 good, and that's certainly an appropriate way to address these
25 depositions. I know folks in other cases have been doing

Sines, et al. v. Kessler, et al. - 4/27/2020

1 that, so I appreciate you all working together to reach that
2 resolution.

3 All right. Well, counsel, I will -- yes, sir.

4 MR. BLOCH: Judge, I'm sorry. This is Mike Bloch.
5 Just one other thing, that the motion -- I don't know if you
6 mentioned this or if these are more appropriately addressed
7 with Judge Moon, but the motions with respect to Mr. Kline are
8 also still pending.

9 THE COURT: Yeah. I think that Mr. Kline, that's one
10 that we'll take up -- that I will take up on a report and
11 recommendation to Judge Moon.

12 MR. BLOCH: Great.

13 THE COURT: Well, I appreciate the updates today and
14 we'll try and get some guidance out to the parties on these
15 discovery issues shortly.

16 MS. KAPLAN: Thank you, Your Honor.

17 THE COURT: Thank you all. Take care.

18 (Court recessed at 1:24 p.m.)

19 CERTIFICATE

20 I, Judy K. Webb, certify that the foregoing is a
21 correct transcript to the best of my ability from
22 the record of proceedings taken by electronic
23 recording in the above-entitled matter.

24
25 /s/ Judy K. Webb

Date: 4/30/2020